

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7098

Petition of Central Vermont Public Service )  
Corporation and its wholly-owned subsidiary )  
Custom Investment Corporation as Guarantor for )  
approval of an unsecured \$25 million revolving )  
credit facility with JPMorgan Chase Bank, N.A. )  
)

Order entered: 9/30/2005

**I. INTRODUCTION**

On September 6, 2005, by letter dated September 2, 2005, Central Vermont Public Service Corporation (and including CVPS' subsidiary, Custom Investment Corporation ("CIC")) ("Central Vermont", "CVPS" or the "Company"), a corporation duly organized and validly existing under the laws of the State of Vermont, filed a petition pursuant to 30 V.S.A. § 108(a) with the Vermont Public Service Board ("Board"), seeking approval for the Company entering, and CIC guaranteeing, an unsecured \$25 million revolving credit facility (the "Facility") with JPMorgan Chase Bank, N.A. ("Chase" or the "Bank"), for a term of approximately three years.

In support of this petition, Central Vermont submitted the prefiled testimony and exhibits of Jean H. Gibson, Senior Vice President, Chief Financial Officer and Treasurer for the Company.

By letter dated September 2, 2005, CVPS gave notice of the petition to the Vermont Department of Public Service ("DPS" or the "Department") and requested a determination from the Department pursuant to 30 V.S.A. § 202(f) that the Company entering, and CIC guaranteeing, the Facility, as proposed by the Company, are consistent with the Vermont Twenty-Year Plan.

The Department's Determination Under 30 V.S.A. § 202(f), was filed with the Board by letter dated September 14, 2005, (the "DPS Determination"). In the DPS Determination, the Department notified the Board that the DPS waives its rights under 3 V.S.A. § 811 and its opportunity for hearing under 30 V.S.A. § 108(a), provided the Board adopts the recommendations and conditions contained in the DPS Determination (the "DPS Waiver"). CVPS waived its rights under 3 V.S.A. § 811 and its opportunity for hearing under 30 V.S.A. § 108(a) and agreed to the Board adopting the recommendations and conditions contained in the DPS Determination (the "CVPS Waiver and Agreement").

In accordance with CVPS' request, the Board notified the Connecticut Department of Public Utility Control ("CT DPUC") that the Board was exercising jurisdiction over the petition.

I have reviewed the petition, the DPS Determination, the DPS Waiver, the CVPS Waiver and Agreement and the supporting testimony and exhibits. I conclude that approval of CVPS' petition for the Company to enter, and for CIC to guarantee, an unsecured \$25 million revolving credit facility (the "Facility") with JPMorgan Chase Bank, N.A. ("Chase" or the "Bank"), for a term of approximately three years all as described in the petition, prefiled testimony and exhibits, pursuant to 30 V.S.A. § 108(a), is appropriate and that such approval may occur without hearing.

Based upon the agreements and statements contained in the petition, the DPS Determination, the DPS Waiver, the CVPS Waiver and Agreement and the supporting testimony and exhibits presented in this Docket, I hereby report the following findings and conclusions to the Board in accordance with 30 V.S.A. § 8.

## **II. FINDINGS**

1. Central Vermont is a company as defined by 30 V.S.A. § 201, and is subject to the jurisdiction of the Board pursuant to 30 V.S.A. § 203. Petition at 1.
2. CIC is a wholly-owned subsidiary of Central Vermont, formed for the purpose of acting as a passive investment holding company for the maintenance and management of intangible assets and the collection and distribution of the income from such investments in order to qualify for certain income tax benefits under 32 V.S.A. § 5837. Petition at 1.
3. The Company and CIC request Board approval for the Company entering, and CIC guaranteeing, an unsecured \$25 million revolving credit facility (the "Facility") with JPMorgan Chase Bank, N.A. ("Chase" or the "Bank"), for a term of approximately three years. The purpose of the Facility is to provide liquidity for general corporate purposes, including working capital needs and, importantly, power contract collateral requirements, in the form of borrowings and letters of credit. The Company's provision of collateral for power transactions is the subject of Docket Nos. 6892 and 7074, in which interim approval was granted following the downgrade of the Company's corporate credit rating. Gibson pf. at 2, 3.
4. The general terms and cost of the Facility are provided on the Commitment Letter and Term Sheet, dated June 29, 2005, provided as Exhibit JHG-1 (the "Term Sheet"). While the Company has sufficient cash reserves on hand to meet immediate needs, CVPS requests Board consideration and approval by October 31, 2005. CVPS' most immediate liquidity needs are driven by the increasing cost of power, which increases the collateral the Company must post. In the event the power market changes

in a manner which requires the Facility to be in place earlier than October 31, 2005, CVPS will so advise the Board. CVPS will provide any information requested by the Board or Department on an expedited basis. Gibson pf. at 3.

5. The Company has growing liquidity needs. While it has cash reserves, the recent rate Order in Docket Nos. 6946 and 6988 has resulted in reduced cash flow, while the recent downgrade of its corporate credit rating has caused the Company to have to post significant collateral in order to buy and sell power through ISO-NE and to meet other third party power contract terms. In addition, the increasing wholesale market cost of power has further increased the Company's collateral requirements over the last two months. CVPS anticipates that the need to provide collateral for power transactions will be the principal use of the Facility, although CVPS may draw on it, from time to time, to meet short-term capital needs. Gibson pf. at 3, 4.

6. The ratings agencies have commented on the need for CVPS to have access to a facility of this type. The ratings agencies have indicated that access to such a facility is advantageous. Exhs. JHG-2 through JHG-5; Gibson pf. at 4, 5.

7. Exhibit JHG-1 describes the Facility, which is intended to have a term of approximately three years. The Term Sheet states a Maturity Date of June 30, 2008, (based on the commitment being made on June 29, 2005); however, CVPS expects that the actual Maturity Date could likely also be a date either (i) three calendar years from the Closing Date or (ii) for convenience, the last day of a month most closely corresponding to a three year term after the Closing Date, which could result in a slightly longer or shorter actual term. Accordingly, CVPS is requesting approval for an approximately three-year term, with the understanding that the term may be slightly longer or shorter than three calendar years from closing. Gibson pf. at 5, 6.

8. The Facility contains standard covenants, including financial, as did all term sheets from the various lenders. The Facility contains standard "Affirmative Covenants" and "Negative Covenants" as described in the Term Sheet. The Facility also contains financial covenants, a Debt-to-Capitalization Ratio and an Interest Coverage Ratio. The Company is already subject to these types of covenants under its First Mortgage Indenture. The particular covenants in this Facility are identical to or less onerous than the covenants in the First Mortgage Indenture. Gibson pf. at 6.

9. Financing terms and costs include an annual commitment fee on the unused balance, plus an interest amount on the outstanding balance of borrowings and letters of credit, priced in accordance with the pricing grid on Annex 1 of Exhibit JHG-1. The pricing grid provides margins that are dependent on the Company's unsecured long term debt rating, which is equivalent to the Company's corporate credit

rating. The Company's corporate credit rating was lowered to BB+ which is below investment grade. Under the pricing grid, therefore, the Commitment Fee would be 0.225%, and the Eurodollar Applicable Margin would be 0.90%. Gibson pf. at 7; Exh. JHG-1.

10. The interest rate on loans is based on either (a) the "ABR Option," which is the higher of (i) the Chase Prime rate or (ii) the federal funds rate plus 0.5%; or (b) the "Eurodollar Rate Option," which is the Eurodollar rate plus the "Eurodollar Applicable Margin" specified in Annex 1 (currently an adder of 0.90%). The ABR option can apply to all loans, while the Eurodollar option is only available for borrowings in excess of \$500,000. For letters of credit, the interest rate or "commission" on the face amount of the letters of credit is the "Eurodollar Applicable Margin" as provided on Annex 1 (currently 0.90%). In addition, when letters of credit are issued, CVPS pays the Bank's usual expenses associated with issuing such letters of credit. There is no up-front origination or arrangement fee, although the Company pays the Bank's documentation expenses, including reasonable attorney fees. Gibson pf. at 7, 8.

11. Chase is requesting that CIC guarantee the Facility. CIC holds, from time to time, a substantial portion of CVPS' excess invested cash, so that CVPS can benefit from the tax advantages. In the event CVPS were to default in its obligations under the Facility, Chase needs the ability to compel CIC to use the assets it holds to satisfy CVPS' obligations. Accordingly, the Company is requesting Board approval for CIC to guarantee the Facility. Gibson pf. at 9.

12. Draft financing documents are not being provided, as they have not yet been drafted by Chase's counsel. The Term Sheet provides the general description of covenants and restrictions. CVPS anticipates no material or adverse changes from current conditions already applicable under the Company's current financing facilities (First Mortgage Indenture, Revenue Bond Indentures and Letter of Credit Reimbursement Agreements) and, accordingly, CVPS is initiating its request for Board approval based upon Exhibit JHG-1. As CVPS has done in its prior financing dockets before the Board, it will promptly inform the Board and Department of any adverse changes in any material terms of the transaction, and will file a set of the principal documents after the closing. Gibson pf. at 9, 10.

13. The Company believes the unsecured \$25 million revolving credit facility, and the Company's obligations thereunder, including CIC's guarantee thereof, are consistent with the Department of Public Service's Vermont Twenty-Year Electric Plan. Approving the Facility, which provides additional liquidity for the Company's working capital needs, and, importantly, power contract collateral requirements, in the form of borrowings and letters of credit, provides the Company with the ability to meet its liquidity needs and access to power markets, all of which promote financial stability. The

Company has asked the Department to provide the Board with a determination of compliance with the Vermont Twenty-Year Electric Plan. Gibson pf. at 10.

14. The Company's Board of Directors approved management negotiating and entering such a Facility. Gibson pf. at 10; exh. JHG-6.

15. The Department has issued the DPS Determination, noticing the Board that the transactions described in CVPS' petition, prefiled testimony and exhibits are consistent with the Vermont Twenty-Year Plan. The DPS Determination does not imply approval by the DPS of the capital structure resulting from any financing, or use of funds for purposes other than those specifically described in the petition. DPS Determination.

16. CVPS has agreed to the recommendations and conditions in the DPS Determination. CVPS Waiver and Agreement.

17. Approval of CVPS' request for consent to the Company entering, and CIC guaranteeing, an unsecured \$25 million revolving credit facility with JPMorgan Chase Bank, N.A., for a term of approximately three years, all as described in the petition, prefiled testimony and exhibits, pursuant to 30 V.S.A. § 108(a), will be consistent with the general good of the State of Vermont as required by 30 V.S.A. § 108(a).

### **III. DISCUSSION**

On the basis of the evidence of record, I recommend that the terms and conditions proposed by CVPS to enter, and for CIC to guarantee, an unsecured \$25 million revolving credit facility with JPMorgan Chase Bank, N.A., for a term of approximately three years, all as described in the petition, prefiled testimony and exhibits, pursuant to 30 V.S.A. § 108(a), will be consistent with the general good of the State of Vermont as required by 30 V.S.A. § 108(a), and should be approved by the Board as consistent with the general good of the State of Vermont. I also recommend that this matter be decided without hearing pursuant to Board Rule 2.219.

All parties to this proceeding have waived the opportunity to comment on this Proposal for Decision in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 30<sup>th</sup> day of September, 2005.

s/Ennis John Gidney

Ennis John Gidney

Hearing Officer

**IV. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The Findings, Conclusion and recommendations of the Hearing Officer are adopted.
2. The terms and conditions proposed by CVPS to enter, and for CIC to guarantee, an unsecured \$25 million revolving credit facility with JPMorgan Chase Bank, N.A., for a term of approximately three years, all as described in the petition, prefiled testimony and exhibits, pursuant to 30 V.S.A. § 108(a), are approved.
3. This Order does not constitute approval of any particular capital or operating expenditure nor the underlying capital structure that Central Vermont Public Service Corporation may implement.
4. Nothing in this approval shall preclude the Department or any other party, or the Board, from reviewing and/or challenging those expenditures and/or the Company's resulting capital structure in any future proceeding.
5. CVPS shall provide the Board and the Department with a complete set of final executed documents when they are available.

Dated at Montpelier, Vermont, this 30<sup>th</sup> day of September, 2005.

<u>s/James Volz</u>	)	
	)	
	)	
<u>s/David C. Coen</u>	)	PUBLIC SERVICE
	)	
	)	
<u>s/John D. Burke</u>	)	BOARD
	)	
	)	OF VERMONT

OFFICE OF THE CLERK

FILED: September 30, 2005

ATTEST: s/Judith C. Whitney  
Acting Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*